

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DONALD MacGILLIVARY,

Petitioner,

No. 2:15-cv-01000-SB

v.

ORDER

MARK NOOTH, Superintendent, Snake
River Correctional Institution,

Defendant.

HERNÁNDEZ, District Judge:

Magistrate Judge Beckerman issued a Findings and Recommendation [61] on April 25, 2018, in which she recommends that this Court deny Petitioner's Amended Petition for Writ of Corpus [23] and dismiss this proceeding with prejudice. Judge Beckerman also recommends that the Court deny a Certificate of Appealability. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Petitioner filed timely objections to the Magistrate Judge's Findings & Recommendation. Pet'r's Obj., ECF 63. When any party objects to any portion of the Magistrate Judge's Findings

& Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).


The Court has carefully considered Plaintiff's objections and concludes there is no basis to modify the Findings & Recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no other errors in the Magistrate Judge's Findings & Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Beckerman's Findings and Recommendation [61] denying Petitioner's Amended Petition for Writ of Habeas Corpus [23]. This case is dismissed with prejudice. Because Petitioner has not made a substantial showing of the denial of a constitutional right, pursuant to 28 U.S.C. § 2253(c)(2), the Court declines to issue a Certificate of Appealability.

IT IS SO ORDERED.

DATED this 20 day of July, 2018.



MARCO A. HERNÁNDEZ
United States District Judge